IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS BEAUMONT DIVISION

ANGELENA GERAGE AND NICKIE JOHN GERAGE	§	
	§	
	§	
VS.	§	**CIVIL ACTION NO. __________**
	§	
DAVID L. BELAIR AND METROPOLITAN TRUCKING, INC.	§	

PLAINTIFFS' ORIGINAL COMPLAINT

A. Parties

1. Plaintiff, Angelena Gerage, is an individual that is a citizen of the State of Louisiana.

2. Plaintiff, Nickie John Gerage, is an individual that is a citizen of the State of Louisiana.

3. Defendant, David L. Belair is an individual and a citizen of the State of Massachusetts and may be served with process at 2 Gerrish Place, Apartment No. 8, Salem, MA 01970.

4. Defendant, Metropolitan Trucking, Inc. is a New Jersey Corporation doing business in Illinois and may be served by serving its registered agent, Illinois Corporation Service Company, 801 Adlai Stevenson Drive, Springfield, Illinois 62703.

B. Jurisdiction

5. The Court has jurisdiction over the lawsuit under 28 U.S.C. § 1332(a)(1) because Plaintiffs and Defendants are citizens of different states and the amount in controversy exceeds $75,000.00, excluding interest and costs.

C. Venue

6. Venue is proper in this district under 28 U.S.C. because a substantial part of the

events or omissions giving rise to this claim occurred in this district. Namely, the wreck forming the basis of this lawsuit occurred in Vidor, Orange County, Texas.

D. Conditions Precedent

7. All conditions precedent have been performed or have occurred.

E. Facts

8. This lawsuit results from a collision that occurredon October 27, 2010 in Vidor, Orange County, Texas on Interstate 10. Prior to the wreck, Plaintiffs, Angelena Gerage and Nickie James Gerage had been traveling East bound in the right outside lane of IH-10 in their white Dodge Ram 1500 pickup truck. It became necessary for Plaintiffs to pull their pickup off IH-10 in Orange County. So, Plaintiffs pulled their pickup completely out of the right lane of IH-10 onto the shoulder and came to a complete stop before this wreck occurred. Defendant, David Belair, was traveling East bound in the right outside lane of IH-10 driving a 2007 Freightliner tractor and towing a box trailer. Defendant, David Belair, drove onto the shoulder of IH-10 and struck Plaintiffs Dodge truck with the right front corner of his 2007 Freightliner. The impact occurred in the outside shoulder of IH-10. According to the police accident report, Defendant, David Belair, told the investigating officer that he had looked to his left to make sure the left lane was clear, and as he did, drifted to the right onto the shoulder, at which time he struck Plaintiffs. The investigating officer determined Defendant, David Belair, failed to drive in a single lane and found no fault on the part of Plaintiffs.

9. The 2007 Freightliner tractor and trailer involved in this wreck were owned by Defendant, Metropolitan Trucking, Inc. It was being operated at the time of the collision under certificates of authority issued by the United States Departments of Transportation to Defendant, Metropolitan Trucking, Inc. and was engaged in interstate commerce. At all times material hereto, Defendant, David Belair, was acting in the course and scope of his employment with Defendant,

Metropolitan Trucking, Inc., or in the alternative, was acting as the agent, representative, servant, or statutory employee of Metropolitan Trucking, Inc. so that Defendant, Metropolitan Trucking, Inc. is vicariously liable for the negligent acts and omissions of Defendant, David Belair.

10. As a result of this wreck, Plaintiff, Angelena Gerage sustained injuries to her neck, back, shoulders, left arm, and left hand. Plaintiff, Nickie James Gerage sustained injuries to his neck, back, shoulders, left arm, and hand. Due to the wreck, Plaintiffs were forced to seek medical treatment for which they have incurred charges. Plaintiffs have suffered physical pain, emotional anguish and physical limitations as a result of the injuries sustained in this wreck. Plaintiffs continue to suffer pain, anguish and physical limitations, and in all likelihood, will continue to suffer into the future. Plaintiffs will incur future medical expenses for care related to the injuries sustained in this wreck. As explained more fully below, Plaintiffs seek to recover any and all damages arising from this wreck to which they may show themselves justly entitled. Additionally, Plaintiffs 2002 Dodge Ram Pickup was damaged in the wreck and Plaintiffs seek to recover all property damages they may be entitled.

F. Negligence

11. At the time of the accident, Defendant, David Belair was operating the vehicle negligently. Defendant, David Belair had a duty to exercise ordinary care and operate his vehicle reasonably and prudently. Defendant, David Belair breached that duty in one or more of the following ways:

a. Failing to keep a proper lookout;

b. Failing to drive in a single lane;

c. Failing to yield the right of way;

d. Driving inattentively; and

e. Failing to control his speed.

12. The above described actions and omissions were a proximate cause of the injuries and damages sustained by Plaintiffs as described more fully below. At the time of the collision, Defendant, David Belair, was acting in the course and scope of his employment with Defendant, Metropolitan Trucking, Inc., or in the alternative, was acting as the agent, representative, servant, or statutory employee of Metropolitan Trucking, Inc. so that Defendant, Metropolitan Trucking, Inc. is vicariously liable for the negligent acts and omissions of Defendant, David Belair.

13. Further, at the time of the wreck, the Freightliner commercial motor vehicle was being operated by Defendant, Belair, pursuant to the certificates of authority issued by the United States Departments of Transportation to Defendant, Metropolitan Trucking, Inc. Thus, pursuant to Federal motor carrier statutes (including but not limited to 49 C.F.R. §§ 376.11-376.12, 390.5) and common law, Metropolitan Trucking, Inc. is absolutely liable for any damages to members of the motoring public resulting from the negligent operation of the Freightliner, regardless of whether such damages resulted from (i) Metropolitan Trucking, Inc.'s negligence in authorizing Belair to drive the truck or to operate under its certificate of authority, or otherwise; (ii) Belair's driving the truck as the statutory employee of Metropolitan Trucking, Inc., and (iii) Metropolitan Trucking, Inc.'s maintenance of the truck or supervision of Belair in the operation of the truck.

14. The Defendants' acts and omissions, committed jointly and severally, were a proximate cause of the collision and the Plaintiffs' injuries and damages. Defendants are therefore jointly and severally liable for all Plaintiffs' injuries and damages.

G. Damages

15. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered the following injuries and damages which exceed the minimum jurisdictional requirements of this Court:

a. Medical expenses in the past and future.

b. Property damage.

c. Physical pain in the past and future.

d. Mental anguish in the past and future.

d. Physical impairment in the past and future.

H. Plaintiffs' Demand for Jury Trial

16. Plaintiffs assert their rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

I. Prayer

17. For these reasons, Plaintiffs ask for judgment against Defendants for the following:

a.

b. mental anguish in the past and future;

c. medical expenses in the past and future;

d. physical impairment in the past and future;

e. prejudgment and post judgment interest;

f. costs of court; and

g. such other relief, at law and in equity, to which they may show themselves justly entitled.

Respectfully submitted,

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